

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1059

Introduced by Senator Liu

February 16, 2010

An act to ~~add Section 85225 to amend Sections 48204, 48645.2, and 56028 of the Education Code, relating to community colleges school districts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, as amended, Liu. ~~Community college districts: transfers between district funds. School districts: districts of residence.~~

(1) Existing law provides for residency requirements for school attendance, including the requirement that a pupil placed within the boundaries of that school district in a regularly licensed children's institution, a licensed foster home, or a family home pursuant to a placement under a designated statute, is deemed to comply with residency requirements for that district.

This bill would provide that a school district into which a pupil is placed in a regularly licensed children's institution, a licensed foster home, or a family home pursuant to a placement under a designated statute is the district of residence. The bill would further require that this school district of residence would be responsible for providing the pupil with a free appropriate public education, as defined. Because this provision would impose new requirements on school districts, it would constitute a state-mandated local program.

(2) Existing law requires a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct, in conformity with the interests of public safety and protection, to receive care, treatment, and guidance that is consistent with his or her best interest, that holds the

minor accountable for his or her behavior, and that is appropriate for his or her circumstances.

Existing law provides for the establishment of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, juvenile camps, regional youth educational facilities, or Orange County youth correctional centers, as specified, to provide juvenile court school pupils with quality education and training. Existing law requires a county board of education to provide for the administration and operation of juvenile court schools in the county, either by the county superintendent of schools, as specified, or by contract with the respective governing boards of the elementary, high school, or unified school district in which the juvenile court school is located.

This bill would require that the county board of education is the district of residence for all pupils in a juvenile court school. The bill would further require that the county board of education would be responsible for providing the pupil with a free appropriate public education, as defined. Because this provision would impose new requirements on school districts, it would constitute a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in the state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Existing law prescribes various fiscal management requirements for community college districts and authorizes temporary transfers to a community college district from a county school service fund, or from any funds of a county, under certain circumstances.~~

~~This bill would authorize the governing board of a community college district to temporarily transfer moneys in a fund or account of the district~~

~~to another fund or account of the district for payment of obligations. The bill would require the governing board to repay the amount of the moneys temporarily transferred in the same fiscal year, or in the following fiscal year if the transfer occurs within the final 120 calendar days of the fiscal year. The bill would limit the amount transferred for these purposes to not more than 75% of the maximum amount held in the fund or account during the fiscal year.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 48204 of the Education Code, as amended*
2 *by Section 1 of Chapter 33 of the Statutes of 2007, is amended to*
3 *read:*

4 48204. (a) Notwithstanding Section 48200, a pupil complies
5 with the residency requirements for school attendance in a school
6 district, if he or she is any of the following:

7 (1) (A) (i) A pupil placed within the boundaries of that school
8 district in a regularly established licensed children's institution,
9 or a licensed foster home, or a family home pursuant to a
10 commitment or placement under Chapter 2 (commencing with
11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
12 Code.

13 (ii) *Notwithstanding Sections 48200 and 56028, for any pupil*
14 *placed pursuant to clause (i), the school district in which the pupil*
15 *resides is the district of residence, and it is that school district that*
16 *is responsible for providing the pupil with a free appropriate public*
17 *education within the meaning of Section 1412 of Title 20 of the*
18 *United States Code and Sections 104.33 and 300.104 of Title 34*
19 *of the Code of Federal Regulations, as these provisions exist on*
20 *January 1, 2011, pursuant to residential placement as specified*
21 *in Chapter 26.5 (commencing with Section 7570) of Division 7 of*
22 *Title 1 of the Government Code and Section 60200 of Title 2 of*
23 *the California Code of Regulations, as it exists on January 1, 2011.*

24 (B) An agency placing a pupil in a home or institution described
25 in subparagraph (A) shall provide evidence to the school that the
26 placement or commitment is pursuant to law.

1 (2) A pupil for whom interdistrict attendance has been approved
2 pursuant to Chapter 5 (commencing with Section 46600) of Part
3 26.

4 (3) A pupil whose residence is located within the boundaries of
5 that school district and whose parent or legal guardian is relieved
6 of responsibility, control, and authority through emancipation.

7 (4) A pupil who lives in the home of a caregiving adult that is
8 located within the boundaries of that school district. Execution of
9 an affidavit under penalty of perjury pursuant to Part 1.5
10 (commencing with Section 6550) of Division 11 of the Family
11 Code by the caregiving adult is a sufficient basis for a
12 determination that the pupil lives in the home of the caregiver,
13 unless the school district determines from actual facts that the pupil
14 is not living in the home of the caregiver.

15 (5) A pupil residing in a state hospital located within the
16 boundaries of that school district.

17 (b) A school district may deem a pupil to have complied with
18 the residency requirements for school attendance in the district if
19 at least one parent or the legal guardian of the pupil is physically
20 employed within the boundaries of that district.

21 (1) This subdivision does not require the school district within
22 which at least one parent or the legal guardian of a pupil is
23 employed to admit the pupil to its schools. A school district shall
24 not, however, refuse to admit a pupil under this subdivision on the
25 basis, except as expressly provided in this subdivision, of race,
26 ethnicity, sex, parental income, scholastic achievement, or any
27 other arbitrary consideration.

28 (2) The school district in which the residency of either the
29 parents or the legal guardian of the pupil is established, or the
30 school district to which the pupil is to be transferred under this
31 subdivision, may prohibit the transfer of the pupil under this
32 subdivision if the governing board of the district determines that
33 the transfer would negatively impact the court-ordered or voluntary
34 desegregation plan of the district.

35 (3) The school district to which the pupil is to be transferred
36 under this subdivision may prohibit the transfer of the pupil if the
37 district determines that the additional cost of educating the pupil
38 would exceed the amount of additional state aid received as a result
39 of the transfer.

1 (4) The governing board of a school district that prohibits the
2 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
3 encouraged to identify, and communicate in writing to the parents
4 or the legal guardian of the pupil, the specific reasons for that
5 determination and is encouraged to ensure that the determination,
6 and the specific reasons therefor, are accurately recorded in the
7 minutes of the board meeting in which the determination was made.

8 (5) The average daily attendance for pupils admitted pursuant
9 to this subdivision is calculated pursuant to Section 46607.

10 (6) Unless approved by the sending school district, this
11 subdivision does not authorize a net transfer of pupils out of a
12 school district, calculated as the difference between the number
13 of pupils exiting the district and the number of pupils entering the
14 district, in a fiscal year in excess of the following amounts:

15 (A) For a school district with an average daily attendance for
16 that fiscal year of less than 501, 5 percent of the average daily
17 attendance of the district.

18 (B) For a school district with an average daily attendance for
19 that fiscal year of 501 or more, but less than 2,501, 3 percent of
20 the average daily attendance of the district or 25 pupils, whichever
21 amount is greater.

22 (C) For a school district with an average daily attendance of
23 2,501 or more, 1 percent of the average daily attendance of the
24 district or 75 pupils, whichever amount is greater.

25 (7) Once a pupil is deemed to have complied with the residency
26 requirements for school attendance pursuant to this subdivision
27 and is enrolled in a school in a school district the boundaries of
28 which include the location where at least one parent or the legal
29 guardian of a pupil is physically employed, the pupil does not have
30 to reapply in the next school year to attend a school within that
31 district and the district governing board shall allow the pupil to
32 attend school through grade 12 in that district if the parent or legal
33 guardian so chooses and if at least one parent or the legal guardian
34 of the pupil continues to be physically employed by an employer
35 situated within the attendance boundaries of the district, subject
36 to paragraphs (1) to (6), inclusive.

37 (c) This section shall become inoperative on July 1, 2012, and
38 as of January 1, 2013, is repealed, unless a later enacted statute,
39 that becomes operative on or before January 1, 2013, deletes or
40 extends the dates on which it becomes inoperative and is repealed.

1 *SEC. 2. Section 48204 of the Education Code, as amended by*
2 *Section 2 of Chapter 33 of the Statutes of 2007, is amended to*
3 *read:*

4 48204. Notwithstanding Section 48200, a pupil complies with
5 the residency requirements for school attendance in a school
6 district, if he or she is:

7 (a) (1) (A) A pupil placed within the boundaries of that school
8 district in a regularly established licensed children's institution,
9 or a licensed foster home, or a family home pursuant to a
10 commitment or placement under Chapter 2 (commencing with
11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
12 Code.

13 (B) *Notwithstanding Section 56028, for any pupil placed*
14 *pursuant to subparagraph (A), the school district in which the*
15 *pupil resides is the district of residence, and it is that school district*
16 *that is responsible for providing the pupil with a free appropriate*
17 *public education within the meaning of Section 1412 of Title 20*
18 *of the United States Code and Sections 104.33 and 300.104 of*
19 *Title 34 of the Code of Federal Regulations, as these provisions*
20 *exist on January 1, 2011, pursuant to residential placement as*
21 *specified in Chapter 26.5 (commencing with Section 7570) of*
22 *Division 7 of Title 1 of the Government Code and Section 60200*
23 *of Title 2 of the California Code of Regulations, as it exists on*
24 *January 1, 2011.*

25 (2) An agency placing a pupil in the home or institution
26 described in paragraph (1) shall provide evidence to the school
27 that the placement or commitment is pursuant to law.

28 (b) A pupil for whom interdistrict attendance has been approved
29 pursuant to Chapter 5 (commencing with Section 46600) of Part
30 26.

31 (c) A pupil whose residence is located within the boundaries of
32 that school district and whose parent or legal guardian is relieved
33 of responsibility, control, and authority through emancipation.

34 (d) A pupil who lives in the home of a caregiving adult that is
35 located within the boundaries of that school district. Execution of
36 an affidavit under penalty of perjury pursuant to Part 1.5
37 (commencing with Section 6550) of Division 11 of the Family
38 Code by the caregiving adult is a sufficient basis for a
39 determination that the pupil lives in the home of the caregiver,

1 unless the school district determines from actual facts that the pupil
2 is not living in the home of the caregiver.

3 (e) A pupil residing in a state hospital located within the
4 boundaries of that school district.

5 (f) This section shall become operative on July 1, 2012.

6 *SEC. 3. Section 48645.2 of the Education Code is amended to*
7 *read:*

8 48645.2. The county board of education shall provide for the
9 administration and operation of juvenile court schools established
10 pursuant to Section 48645.1:

11 (a) By the county superintendent of schools, provided that, in
12 any county in which the board of supervisors is establishing or
13 maintaining juvenile court schools on January 1, 1978, the county
14 superintendent of schools may contract with the board of
15 supervisors for the administration and operation of such schools
16 if agreed upon between the board of education and the board of
17 supervisors. In any event, the county superintendent of schools
18 may contract with other educational agencies for supporting
19 services to the same extent that school districts may contract with
20 other such agencies.

21 (b) By contract with the respective governing boards of the
22 elementary, high school, or unified school district in which the
23 juvenile court school is located.

24 (c) (1) *For a pupil in a juvenile court school established*
25 *pursuant to Section 48645.1, the county board of education is the*
26 *district of residence and is responsible for the provision of a free*
27 *appropriate public education for individuals with exceptional*
28 *needs, including, but not necessarily limited to, paying and*
29 *providing for residential placement, any other related service,*
30 *benefit, or aid, whether located inside or outside of the juvenile*
31 *court school, within the meaning of Sections 7572.5 and 7573 of*
32 *the Government Code and Sections 104.33 and 300.104 of Title*
33 *34 of the Code of Federal Regulations as these federal regulations*
34 *exist on January 1, 2011.*

35 (2) *When a pupil is placed at a residential placement under this*
36 *subdivision, the county board of education shall remain the district*
37 *of residence for that pupil after the disposition of the pupil's*
38 *juvenile delinquency case and through the duration of the*
39 *residential placement.*

1 (3) *If a determination is made by a properly constituted*
2 *individualized education program team that a less-restrictive*
3 *environment is appropriate for the pupil, the county office of*
4 *education is responsible for transitioning the pupil into a*
5 *subsequent placement. This subsequent placement may be a public*
6 *or nonpublic school certified by the State Department of Education.*

7 (4) *The responsibility of the county board of education under*
8 *this subdivision includes the development of an individualized*
9 *education program that includes a transition plan to the public*
10 *school as described in paragraph (4) of subdivision (b) of Section*
11 *56345.*

12 (5) *If a dispute arises regarding responsibility for subsequent*
13 *placement or services, the county board of education is responsible*
14 *for the placement and services determined by the individualized*
15 *education program team until the dispute is resolved.*

16 (6) *The county board of education may seek reimbursement*
17 *from public agencies that fail to accept timely responsibility for a*
18 *pupil placed under this subdivision.*

19 SEC. 4. *Section 56028 of the Education Code is amended to*
20 *read:*

21 56028. (a) “Parent” means any of the following:

22 (1) A biological or adoptive parent of a child.

23 (2) A foster parent if the authority of the biological or adoptive
24 parents to make educational decisions on the child’s behalf
25 specifically has been limited by court order in accordance with
26 Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal
27 Regulations.

28 (3) A guardian generally authorized to act as the child’s parent,
29 or authorized to make educational decisions for the child, including
30 a responsible adult appointed for the child in accordance with
31 Sections 361 and 726 of the Welfare and Institutions Code.

32 (4) An individual acting in the place of a biological or adoptive
33 parent, including a grandparent, stepparent, or other relative, with
34 whom the child lives, or an individual who is legally responsible
35 for the child’s welfare.

36 (5) A surrogate parent who has been appointed pursuant to
37 Section 7579.5 or 7579.6 of the Government Code, and in
38 accordance with Section 300.519 of Title 34 of the Code of Federal
39 Regulations and Section 1439(a)(5) of Title 20 of the United States
40 Code.

(b) (1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the “parent” of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the “parent” for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Sections 361 and 726 of the Welfare and Institutions Code.

(c) “Parent” does not include the state or any political subdivision of government.

(d) “Parent” does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

(e) For a pupil placed pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 48204, the school district of residence is the school district wherein the pupil resides. The residence of the person or persons listed in paragraph (5) of subdivision (a), or paragraph (2) of subdivision (b), of this section does not determine the school district of residence.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 85225 is added to the Education Code, to read:~~

~~85225. (a) The governing board of a community college district may temporarily transfer moneys held in any fund or account of the district to another fund or account of the district for payment of obligations. The governing board shall account for the transfer as temporary borrowing between funds or accounts. The transferred~~

1 moneys shall not be available for appropriation or be considered
2 income to the borrowing fund or account.

3 (b) The governing board shall repay amounts transferred
4 pursuant to this section either in the same fiscal year, or in the
5 following fiscal year if the transfer takes place within the final 120
6 calendar days of a fiscal year.

7 (c) The governing board may transfer moneys pursuant to this
8 section only if the fund or account receiving the money will earn
9 sufficient income, during the current fiscal year, to repay the
10 amount transferred.

11 (d) The governing board may transfer not more than 75 percent
12 of the maximum amount of moneys held in a fund or account
13 during the current fiscal year pursuant to this section.